

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

DANDRAE JAMES,

Petitioner,

v.

DIRECTOR, TDCJ-CID,

Respondent.

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Case No. 6:20-cv-525-JDK-JDL

**ORDER ADOPTING REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE**

Petitioner Dandrae James, a Texas Department of Criminal Justice inmate proceeding pro se, filed this federal petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. The petition was referred to United States Magistrate Judge John D. Love for findings of fact, conclusions of law, and recommendations for disposition.

On October 7, 2020, Judge Love issued a Deficiency Order, ordering Petitioner to either: (1) pay the statutory \$5.00 filing fee; or (2) furnish an application for leave to proceed *in forma pauperis* by November 13, 2020. Docket No. 3. Petitioner was warned that the failure to comply may result in the dismissal of the petition. *Id.* Petitioner received the Order on October 16, 2020. Docket No. 4. To date, Petitioner has neither paid the filing fee nor sought leave to proceed *in forma pauperis*.

Accordingly, on December 4, 2020, Judge Love issued a Report and Recommendation recommending that the Court deny the petition without prejudice for failure to prosecute or to obey an order of the Court. Docket No. 5. A copy of this

Report was sent to Petitioner at his last known address, but no objections have been received.


This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass’n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Here, Petitioner did not object in the prescribed period. The Court therefore reviews the Magistrate Judge’s findings for clear error or abuse of discretion and reviews the legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge’s Report are filed, the standard of review is “clearly erroneous, abuse of discretion and contrary to law”).

Having reviewed the Magistrate Judge’s Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 5) as the findings of this Court. This petition for habeas corpus is hereby **DISMISSED WITHOUT PREJUDICE** for failure to prosecute or to obey a Court order. The Court **DENIES** a certificate of

appealability as to an appeal of this case but having no effect upon Petitioner's right to refile this petition should he choose to do so.

So **ORDERED** and **SIGNED** this **24th** day of **March, 2021**.

  
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JEREMY D. KERNODLE  
UNITED STATES DISTRICT JUDGE